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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

SURGICAL INSTRUMENT SERVICE COMPANY, INC. *Plaintiff/Counter-Defendant,* v. INTUITIVE SURGICAL, INC., *Defendant/Counterclaimant.*	Case No. 3:21-cv-03496-AMO Honorable Araceli Martínez-Olguín **PLAINTIFF'S PROPOSED JURY INSTRUCTION**

Pursuant to the Court's Order Re: Curative Instruction, Dkt. 412, and the Court's order for Plaintiff to respond to Defendant's proposed curative instruction, Dkt. 413, Plaintiff Surgical Instrument Service Company, Inc. ("SIS") submits the following proposed jury instruction:

> Members of the Jury, yesterday you heard deposition testimony that referenced the federal Food and Drug Administration ("FDA"). You will now be instructed as to two matters of fact that you are to accept as established and true:
>
> First, Rebotix applied in 2014 for FDA clearance to repackage and market modified EndoWrists. The FDA did not grant Rebotix clearance at that time, Rebotix withdrew its application in 2015, and Rebotix lacked FDA clearance when Plaintiff SIS worked with it.
>
> Second, Defendant Intuitive Surgical obtained FDA clearance to market the da Vinci and the EndoWrists with a limited number of uses set by Intuitive.
>
> I further instruct you that, as a matter of law, FDA clearance does not determine that a product is safe.

With respect to the third point of the curative instruction, Plaintiff submits that it accurately tracks the Court's recital of Defendant's original request, Dkt. 412, and is less confusing for the jury.

Dated: January 9, 2025

By: */s/ Joshua Van Hoven*
Joshua V. Van Hoven

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